

THE WARRANT
SPECIAL TOWN MEETING – November 3, 2009
TOWN OF BAR HARBOR

STATE OF MAINE

County of Hancock, ss

To: Nathan Young, A Constable of the Town of Bar Harbor

Greeting:

In the name of the State of Maine you are hereby required to notify and warn the voters of the Town of Bar Harbor, in said County, qualified by law to vote in Town affairs to meet in the Municipal Building, Third Floor Auditorium in said Town on Tuesday the third day of November, A. D., 2009 at eight o'clock in the forenoon until eight o'clock afternoon, then and there to act on Articles numbered one through seven, all of said articles being set out below to wit:

Article 1 - ELECTION OF MODERATOR - To choose a Moderator to preside at said meeting.

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Article 2 - LAND USE ORDINANCE AMENDMENT – Wind Turbine Ordinance –
Shall an Ordinance dated July 7, 2009 and entitled “An amendment to create standards for the siting of wind turbines” be enacted?

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Wind Turbine Ordinance

An amendment to create standards for the siting of wind turbines

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE V Site Plan Review

§ 125-25. Site plan review required.

B. Minor site plan review and approval by the Planning Department shall be substituted for major site plan review in cases of:

(6) Wind turbines.

§ 125-69. Standards for particular uses, structures or activities.

U. Small Wind Energy Systems

- (1) Purpose: The purpose of this section is to regulate the placement and construction of Small Wind Energy Systems (SWES) while preserving the town's visual character, minimizing environmental impacts and protecting the public health, safety and welfare of the residents of Bar Harbor.
- (2) Permitting Authority: An SWES for residential use shall be permitted through the Minor Site Plan process as outlined in Article V of the Bar Harbor Land Use Ordinance (LUO). An SWES for non-residential use shall be permitted by the Planning Board.
- (3) An SWES on property owned, leased or otherwise controlled by the Town of Bar Harbor is exempt from the provisions of this Section.
- (4) Location: An SWES is a permitted use in all districts except for historic districts. On lots less than five (5) acres, no more than one (1) SWES shall be allowed. On lots of five acres or more, up to three (3) SWES shall be allowed.
- (5) Setbacks: All parts of an SWES shall be setback from all property lines a minimum distance equal to the height of the wind system structure measured from the ground to the systems highest point or the required minimum setback of the district in which it is located, whichever is greater.
- (6) Height: An SWES shall have a maximum height of 60 feet for residential uses and 80 feet for non-residential uses as measured from the ground level to the systems highest point.
- (7) Noise: The SWES shall not exceed 55 dBA as measured at the property line in all districts except during short-term weather events such as severe wind storms.
- (8) Submission Requirements: For all small wind energy systems and in addition to all the relevant site plan review submission requirements listed in §125-66, the following submissions shall be required unless waived by the Planning Board:
 - (a) A completed application checklist provided by the planning department.
 - (b) Description of the project including specific information on the type, size, tower type and height, rotor material and diameter, rated power output, performance, safety and noise, manufacturer, model and serial number of the SWES.
 - (c) A site plan showing the planned location of the SWES and location of and

- distance to setback lines, property lines, roads, driveways, ROWs and any overhead utility lines on the subject property and adjacent properties within 300 feet.
- (d) A scaled representation of the SWES showing system height and evidence the proposed height does not exceed the height recommended by the manufacturer of the system.
 - (e) A line drawing of the electrical components of the system in sufficient detail to establish that the installation conforms to all applicable electrical codes.
 - (f) Emergency and normal shutdown procedures.
 - (g) If connection to the publicly regulated utility grid is proposed, a copy of the contract between applicant and utility verifying that the proposed connection is acceptable, and/or other evidence making clear that the utility is aware of the proposed connection and finds it acceptable.
 - (h) Photographs of the proposed site.
 - (i) The Planning Board may require a scenic assessment for an SWES for non-residential use consisting of one or more of the following:
 - [1] A visual analysis composed of elevation drawings of the proposed SWES and any other proposed structures, showing height above ground level. The analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the site that is intended to lessen the system's visual prominence.
 - [2] A landscaping plan indicating the proposed placement of the facility on the site; location of existing trees and other significant site features; and the method of fencing, if any.
 - [3] A narrative discussing the extent to which the SWES would be visible from a designated scenic resource, the tree line elevation of vegetation within 100 feet and the distance to the proposed facility from the designated scenic resources noted viewpoints.
- (9) Design Standards:
- (a) Residential Design Standards. All components of an SWES used to generate electricity including blades and all accessory parts shall not have a diameter of more than 20 feet.
 - (b) Non-Residential Design Standards. All components of an SWES used to generate electricity including blades and all accessory parts shall not have a diameter of more than 30 feet. For mixed-use properties the use with the most dedicated square footage shall determine the allowable diameter.
 - (c) The minimum distance between the ground and any wind turbine blades of an SWES shall be 25 feet as measured at the lowest arc of the blades.
 - (d) An SWES shall be equipped with both manual and automatic over-speed controls.
 - (e) The SWES shall be operated and located such that no disruptive electromagnetic interference with signal transmission or reception is caused beyond the site. If it has been demonstrated that the system is causing disruptive interference beyond the site, the system operator shall promptly eliminate the disruptive interference or cease operation of the system.

- (f) The SWES shall be designed and installed such that unauthorized public access via step bolts or a ladder is prevented for a minimum of 12 feet above the ground.
- (g) The SWES shall be a non-reflective surface to minimize any visual disruptions.
- (h) All on-site electrical wires associated with the system shall be installed underground except for “tie-ins” to a public utility company transmission poles, towers and lines. This standard may be modified by the permitting authority if the project terrain is determined to be unsuitable for underground installation.
- (i) The SWES shall not be lighted unless required by the FAA.
- (j) The SWES shall not display any permanent or temporary signs, writing, symbols, logos or any graphic representation of any kind except appropriate manufacturer’s or installer’s identification and warning signs..
- (k) The SWES shall not have guy wires.
- (10) Abandonment: An SWES which is not generating electricity for twelve (12) consecutive months shall be deemed abandoned and shall be dismantled and resolved from the property by the owner within 120 days of receipt of notice from the town. An SWES owner may request in writing to the Code Enforcement Officer an extension of up to one (1) year if the owner is actively pursuing the repair of the SWES for future use.

§ 125-109. Definitions.

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SMALL WIND ENERGY SYSTEM - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100kW.

WIND TURBINE - The blades, rotor, and associated mechanical and electrical conversion components mounted on top of the supporting tower.

LAND USE

125 Attachment 6

Appendix C Table of Permitted Uses

Key to Appendix C

Permissibility of Use

m = minor site plan review required

LAND USE

Appendix C
Table of Permitted Uses

District	<u>Wind Turbine</u>
Bar Harbor Corridor	<u>m</u>
Bar Harbor Historic	<u>m</u>
Bar Harbor Historic Corridor	<u>m</u>
Bar Harbor Residential	<u>m</u>
Downtown Business	<u>m</u>
Downtown Residential	<u>m</u>
Educational Institution	<u>m</u>
Emery	<u>m</u>
Hulls Cove Business	<u>m</u>
Hulls Cove Historic	<u>m</u>
Hulls Cove Residential Corridor	<u>m</u>
Hulls Cove Rural	<u>m</u>
Indian Point Residential	<u>m</u>
Indian Point Rural	<u>m</u>
Industrial	<u>m</u>
Ireson Hill Corridor	<u>m</u>
Ireson Hill Residential	<u>m</u>
McFarland Hill Residential	<u>m</u>
McFarland Hill Rural	<u>m</u>
Marine Research	<u>m</u>
Otter Creek	<u>m</u>
Resource Protection	<u>m</u>
Salisbury Cove Corridor	<u>m</u>
Salisbury Cove Residential	<u>m</u>
Salisbury Cove Rural	<u>m</u>
Salisbury Cove Village	<u>m</u>
Schooner Head	<u>m</u>
Scientific Research	<u>m</u>
Shoreland General Development I	<u>m</u>
Shoreland General Development II	<u>m</u>
Shoreland Limited Residential	<u>m</u>
Stream Protection	<u>m</u>
Town Hill Business	<u>m</u>

Town Hill Residential Corridor	<u>m</u>
Town Hill Residential	<u>m</u>
Town Hill Rural	<u>m</u>

Explanation: *This Ordinance introduces wind turbines as an allowed use by minor site plan review and includes performance and dimensional requirements.*

Recommendations:

The five member Planning Board recommends adoption by a vote of 4 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 7 to 3.

Article 3 - LAND USE ORDINANCE AMENDMENT – Stormwater Management –

Shall an Ordinance dated July 7, 2009 and entitled “An amendment to update and modernize the regulations for stormwater management” be enacted?

Stormwater Management

An amendment to update and modernize the regulations for stormwater management.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE II Establishment of Districts

§ 125-67. General review standards.

- L. Stormwater management. All site plans shall demonstrate that the proposed development shall provide for adequate stormwater management in compliance with the following standards:

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- (6) Catch basins shall be installed where necessary and located at the curbline but at no greater horizontal intervals than three hundred feet.
- (7) Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the ~~Planning Board~~ Public Works Director.
- (8) Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of ~~four hundred foot~~ 250 foot intervals.
- (9) Outlets shall be stabilized against soil erosion by riprap or other suitable materials to reduce stormwater velocity.
- (10) Materials used in storm drainage construction shall comply with the following standards:
 - (a) Reinforced concrete pipe. Reinforced concrete pipe shall meet the requirements of ASTM Designation C-76 (AASHTO M 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the 0.01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing material such as "Ramnek." Perforated concrete pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.
 - ~~(b) Corrugated metal pipe. Corrugated metal pipe shall be bituminous coated meeting the requirements of AASHTO Designation M 190 Type C for iron or steel pipe or AASHTO Designation M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than 5%.~~
 - (c) ABS pipe. ABS (Acrylonitrile-butadiene styrene) composite pipe and fittings shall conform to the requirements of AASHTO M 264 and AASHTO M 265. Perforated pipe shall conform to the requirements of AASHTO M 36, Type III.
 - (d) Corrugated plastic pipe. Corrugated plastic pipe shall conform to the requirements of AASHTO M 252.
 - (e) Manholes. Manholes shall be of precast eccentric concrete truncated cone section or eccentric flat top construction meeting the requirements of ASTM Designation C 478 ~~or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type.~~ Bases may be cast-in-place 3,000 psi twenty-eight-day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and ~~traps~~ covers shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel. Manholes shall be provided with Polypropylene coated steps. Frames and covers shall be brought to grade with a minimum of two courses and a maximum of five courses of brick.

- (f) Catch basins. Catch basins shall be of precast concrete eccentric truncated cone section or eccentric flat top construction meeting the requirements of ASTM Designation C 478 ~~or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type~~. Castings shall be square cast iron sized for the particular inlet condition with the gratings perpendicular to the curbline. Bases may be cast in place 3,000 psi twenty-eight-day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and ~~traps~~ grates shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel. Frames and grates shall be brought to grade with a minimum of two courses and a maximum of five courses of brick. Catch basins shall be provided with a two sump.
- (11) Stormwater drainage systems shall be designed so as to prevent the infiltration of stormwater into the public sewer system and shall be maintained as necessary to ensure proper functioning.
- (12) Wherever a stormwater drainage system, including a natural watercourse or drainageway, is not within a public right-of-way, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system. Such easement shall be at least 30 feet in width. In no event shall the granting of such an easement be deemed to require maintenance or improvement of the stormwater drainage system by the Town.
- (13) All site plans shall demonstrate in the form of signed affidavits from the Public Works Department that the proposed development shall not place an unreasonable burden on the municipal stormwater drainage system, if such system is to be used, and that the Public Works Department has approved the design specifications of any stormwater drainage system that shall be connected to the municipal system.

Explanation: *This ordinance updates the requirements for stormwater management to current industry standards.*

Recommendations:

The five member Planning Board recommends adoption by a vote of 4 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 10 to 0.

Article 4 - LAND USE ORDINANCE AMENDMENT – Traffic Standards – Shall an Ordinance dated July 7, 2009 and entitled “An amendment to update and modernize the regulations for traffic” be enacted?

Traffic Standards

An amendment to update and modernize the regulations for traffic.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE II Establishment of Districts

§ 125-66. Submission requirements.

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U. Traffic impact. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours and, for all developments of 10 or more lots, dwelling units or rental units, for all developments expected to generate more than 100 vehicle trips per day, and for all development deemed by the Planning Board because of special circumstances to require it, a traffic impact analysis report by a ~~registered~~ licensed professional engineer that the street and intersections providing ~~giving~~ access to the development and neighboring streets and intersections that can be expected to carry traffic to and from the development have adequate carrying capacity to accommodate the amount and types of traffic to be generated by the proposed use and further demonstrating whether the development shall ~~increase the volume capacity ratio of any street above 0.8 or reduce the street's level of service to "D" or below~~ reduce the level of service to below "D" by using the capacity analysis procedures set forth in the current edition of the Highway Capacity Manual, published by the Transportation Research Board. Traffic studies shall include the data and analysis of peak summer traffic as well as traffic patterns in winter months to determine the full range of impacts on the development and from the development.

§ 125-67. General review standards.

G. Streets, sidewalks and access.

(1) Capacity.

(a) New streets and intersections, and streets and intersections giving access to the development and neighboring streets and intersections which can be expected to carry traffic to and from the development shall have traffic carrying capacity and be suitably improved to accommodate the amount and types of traffic generated by the proposed use. No development shall ~~increase~~

~~the volume capacity ratio of any street above 0.8 nor reduce the street's level of service to "D" or below~~ reduce the street's level of service below "D" as determined by using the capacity analysis procedures set forth in the 1985 2000 Highway Capacity Manual, Special Report 209, as published by the Transportation Research Board.

- (b) Accessways shall be of a design and have sufficient capacity to avoid queuing of entering vehicles on any street.
- (c) The proposed development shall not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of highways or public roads, existing or proposed.
- (d) Where necessary to safeguard against hazards to traffic or pedestrians, or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, driveways and traffic controls within public streets or for the connection of internal pedestrian walkways to the nearest public sidewalk when such sidewalk is reasonably close to the proposed development and it is reasonably anticipated that the users of the proposed development will regularly use such sidewalk in connection with their use of the proposed development.

Explanation: *This Ordinance updates the requirements in site plan review for traffic studies and analysis using current engineering practice.*

Recommendations:

The five member Planning Board recommends adoption by a vote of 4 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 9 to 1.

Article 5 - LAND USE ORDINANCE AMENDMENT –Home Occupations – Shall an Ordinance dated July 7th, 2009 and entitled “An amendment to the Bar Harbor Code, Chapter 125, Land Use Ordinance Section 125-58 to change standards for Home Occupation be enacted?

Home Occupation

An Amendment to expand the allowances for home occupation in certain districts.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125, LAND USE ORDINANCE

The town of Bar Harbor's entire Section 125-58 of the town code is being amended as follows.

§ 125-58 Site plan review required.

B. Minor site plan review and approval by the Planning Department shall be substituted for major site plan review in cases of:

(5) Home occupations on lots with frontage on Routes 3 and 102

125-68. Home occupations.

Home occupations will be permitted only on the following conditions:

- (1) Home occupations on properties with frontage on Routes 3 and 102 are to accommodate uses not otherwise allowed in the district and permitted as a means for residents to live and work in place while taking advantage of the existing high daily vehicle trips. Home occupations are limited to those uses which may be conducted within a residential dwelling without substantially changing the appearance or condition of the residence or accessory structures and which are compatible with the districts in which they are located.
- (2) Home occupations on properties with frontage on Routes 3 and 102:
 - (a) Shall seek minor site plan review as per Section 125-58.B.(5) if non family members are employees; approvals shall be based upon meeting the criteria herein;
 - (b) The use of the dwelling for a home occupations shall be incidental and subordinate to its residential use; however any accessory structure may be fully dedicated to the home occupation;
 - (c) Up to five non-family members may be employed; however the owner of the business must reside on the premises;
 - (d) The area for any exterior displays or materials storage shall be counted towards lot coverage requirements in the district;
 - (e) Accessory structures dedicated to the home occupation shall not be located in the front yard;
 - (f) Up to 40% of the dwelling unit floor area may be dedicated to the home occupation; unfinished basement and attic spaces are not included in this calculation.

(3) Home occupations in the Downtown Residential District, and on properties with frontage on the following streets: Bayview Drive, Crooked Road, Eagle Lake Road, and Old Bar Harbor Road,

(a) Home occupations in these locations shall be subject to the requirements in (4) below except:

(i) There may be up to 2 non-family member employees;

(ii) Not more than 30% of the dwelling unit floor area shall be dedicated to home occupation, provided that for purposes of this calculation, unfinished basement and attic spaces are not included.

(4) Home occupations in other locations:

(a) The use of a dwelling unit or its accessory structure for a home occupation shall clearly be incidental and subordinate to its use for residential purposes.

(b) A home occupation must be carried on wholly within a dwelling unit or a structure customarily accessory to a dwelling unit.

(c) A home occupation must be conducted by a member or members of the family residing in the dwelling units.

(d) A home occupation must not materially injure the usefulness of the dwelling unit or accessory structure for normal residential purposes.

(e) A home occupation shall be allowed no exterior display, no exterior sign other than those permitted in § 125-67BB(3)(n), no exterior storage of materials, no retail sale of goods except those produced upon the premises and those which are clearly incidental to the providing of service involved in a home occupation, and no other exterior indication of the home occupation or variation from the residential character of the principal building.

(f) Not more than 20% of the dwelling unit floor area shall be dedicated to home occupation, provided that for purposes of this calculation, unfinished basement and attic spaces are not included;

(g) One accessory structure. The floor area utilized in the accessory structure shall not exceed 50% of the total floor area of the dwelling unit as previously calculated.

(4) For all home occupations:

(a) Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare, or activity at unreasonable hours shall not be permitted of a home occupation.

(b) The traffic generated by a home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood.

- (c) In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for any employees allowed above and for the vehicles of the maximum number of users a home occupation may attract during peak operating hours.
- (d) For purposes of this chapter, use of residential buildings for transient accommodations shall not be considered a home occupation but rather shall be governed by other provisions of this chapter.
- (5) The Code Enforcement Officer ~~or Planning Board~~ shall refer any request for a land use permit for a home occupation, or, an owner within 300' of a home occupation may submit a request to the Board of Appeals if there is any doubt as to whether the proposed use fails to meet any of the requirements.

LAND USE

125 Attachment 6

Appendix C Table of Permitted Uses

Key to Appendix C

Footnotes

- 13 Minor site plan for lots with frontage on Route 3 and Route 102 for home occupations with non-family members as employees, otherwise Code Enforcement Officer permit.

LAND USE

Appendix C Table of Permitted Uses

District	Home Occupation
Bar Harbor Corridor	c,b13
Bar Harbor Historic	c,b13
Bar Harbor Historic Corridor	C,b13
Bar Harbor Residential	c,b13
Downtown Business	c,b13

Downtown Residential	c,b13
Educational Institution	
Emery	c
Hulls Cove Business	c,b13
Hulls Cove Historic	c,b13
Hulls Cove Residential Corridor	c,b13
Hulls Cove Rural	c
Indian Point Residential	c
Indian Point Rural	c
Industrial	
Ireson Hill Corridor	c,b13
Ireson Hill Residential	c,b13
McFarland Hill Residential	c
McFarland Hill Rural	c
Marine Research	
Otter Creek	c,b13
Resource Protection	
Salisbury Cove Corridor	c,b13
Salisbury Cove Residential	c,b13
Salisbury Cove Rural	c
Salisbury Cove Village	c,b13
Schooner Head	b
Scientific Research	
Shoreland General Development I	
Shoreland General Development II	
Shoreland Limited Residential	
Stream Protection	
Town Hill Business	c,b13
Town Hill Residential Corridor	c,b13
Town Hill Residential	c,b13
Town Hill Rural	c

Explanation: *This Ordinance expands the allowances for home occupation to occupy more area of a property, allow for non-family members to be employees with conditions and such allowances shall be in specific areas with a public review process.*

Recommendations:

*The five member Planning Board recommends adoption by a vote of 4 to 0.
The 22 member Warrant Committee recommends adoption by a vote of 6 to 4.*

Article 6 - LAND USE ORDINANCE AND MAP AMENDMENT – Shoreland Standards and Shoreland District Map – Shall an Ordinance dated July 7, 2009 and entitled “An amendment to update the standards for Shoreland Districts” be enacted?

Shoreland Standards

An amendment to update the standards for Shoreland Districts and Shoreland District Map.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE II Establishment of Districts

§ 125-14. Interpretation of district boundaries.

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- C. Boundaries indicated as approximately following shorelines of any lake or pond shall be construed as following the ~~mean~~ normal high-water line.

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- G. Where physical or natural features existing on the ground are at variance with those shown on the official map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Board of Appeals shall interpret the district boundaries; provided, however, that in all cases the determination of any ~~setback from the high water mark~~ shoreline setback shall be determined by actual site measurement.

ARTICLE III Land Use Activities and Standards

§ 125-47. Shoreland General Development I.

- A. Minimum lot size: 30,000 square feet per residential dwelling unit in tidal areas and 40,000 square feet per residential dwelling unit in non-tidal areas; 60,000 square feet per governmental, institutional, commercial or industrial structure adjacent to non-tidal areas; 40,000 square feet for all other uses or structures.

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§ 125-49. Shoreland General Development II.

- A. Minimum lot size: 30,000 square feet per residential dwelling unit in tidal areas and 40,000 square feet per residential dwelling unit in non-tidal areas; 60,000 square feet per governmental, institutional, commercial or industrial structure adjacent to non-tidal areas; 40,000 square feet for all other uses or structures.

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§ 125-51. Marine Research.

- A. Minimum lot size: 20,000 square feet with sewers; 40,000 square feet without sewers.
- B. Minimum road frontage and lot width: 100 [feet] with sewers; 200 [feet] without sewers.
- C. Minimum shore frontage: 150 [feet] per dwelling unit adjacent to tidal areas; 200 [feet] for all other uses and structures.
- ~~D~~C. Minimum front setback: 25 [feet].
- ~~E~~D. Minimum side setback: 25 [feet].
- ~~F~~E. Minimum rear setback: 25 [feet].
- ~~G~~F. Minimum setback from ~~normal high water line~~ shoreline: zero [feet] for water-dependent uses; 75 [feet] for all other uses.
- ~~H~~G. Maximum lot coverage: 25%.
- ~~I~~H. Maximum building coverage: 12.5%.
- ~~J~~I. Maximum height: 35 [feet] within 250 feet of normal high water line; 40 [feet] elsewhere.
- ~~K~~J. Minimum area per family: ~~30,000~~ 20,000 square feet.

§ 125-51.1 Educational Institution.

- A. Minimum lot size: 40,000 square feet.
- B. Minimum road frontage and lot width: 100 feet.
- C. Minimum shore frontage: 150 [feet] per dwelling unit adjacent to tidal areas; 200 [feet] for all other uses and structures.
- ~~D~~C. Minimum front setback: 25 feet.
- ~~E~~D. Minimum side setback: 25 feet.
- ~~F~~E. Setback from district boundary line: 25 feet; 110 feet along the eastern boundary of the district; 200 feet along the eastern boundary of the district for student housing, as defined.
- ~~G~~F. Minimum setback from ~~normal high water line~~ shoreline: zero for water-dependent uses; 75 feet for all other uses.
- ~~H~~G. Maximum lot coverage: 30%.
- ~~I~~H. Maximum height: 40 feet.
- ~~J~~I. Minimum area per family: 20,000 square feet.

ARTICLE IV Nonconformity

§ 125-55. Nonconforming structures.

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A. No structure shall be enlarged, altered or extended in any way that increases its nonconformity. Any enlargement, alteration or extension that does not project past existing walls, foundations or eaves that already encroach into the required setback area shall not be considered to increase a structure's nonconformity. However, the following limitations shall apply to nonconforming structures within 75 feet of the normal high water line of a water body, tributary stream, significant vernal pool or upland edge of a wetland and 100 feet from the normal high water line of a great pond classified GPA or a river flowing to a great pond classified GPA:

- (1) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 125-55 (B)(3) below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with 125-55 (A)(2) below, considering the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed, and that the foundation does not cause the structure to be elevated by more than three (3) additional feet as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

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- (2) Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal may be reconstructed or replaced, provided that a permit is obtained within 18 months one year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent, as determined by the Planning Board or its designee in accordance with the purposes of this chapter. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

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§ 125-56. Nonconforming lots.

A single parcel of land, the legal description or dimensions of which are recorded on a document or map on file at the Hancock County Registry of Deeds, which lawfully existed immediately prior to the enactment of this chapter or any subsequent amendment and which, as a result of the enactment of this chapter or any amendment, does not meet

the lot size, minimum area per family, road frontage, floor area ratio, lot coverage, shore frontage or lot width requirements, or all ~~six~~ seven, in the district in which it is located, and which does not adjoin another vacant parcel in common ownership, may be built upon without the need for a variance, but only subject to the following:

ARTICLE V Site Plan Review

§ 125-68. Shoreland Standards.

- A. Notwithstanding and in addition to any other provisions of this chapter, before granting site plan approval or a building permit for:
- (1) Any structure built on, over or abutting a dock, wharf, pier or other structure extending ~~beyond~~ below the normal high water line of a water body or within a wetland;
 - (2) Any land use activity situated entirely or partially within 250 feet, horizontal distance, of the normal high water line of any great pond, or river ~~or saltwater body~~, within 250 feet, horizontal distance, of the upland edge of a coastal or freshwater wetland, or within 75 feet, horizontal distance, of the high water line of a stream, tributary stream, significant vernal pool as such terms are defined in 38 M.R.S.A. § 435 et seq. and § 125-109 of this chapter.

• • • •

- [3] ~~Any debris that falls below the normal high water line of a water body shall be removed. No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland and between 50 and 250 feet, horizontal distance, or the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.~~

• • • •

- (4) Erosion and sedimentation control. All site plans shall demonstrate through a submitted written soil erosion and sedimentation control plan that filling, grading, lagooning, dredging, earth-moving activities and other land use activities in a shoreland area shall be conducted in such manner to prevent, to the maximum extent possible, erosion and sedimentation of surface waters and shall further demonstrate that, in addition to the requirements of § 125-67Q, such activities shall comply with the following:
 - (a) On slopes greater than 25%, there shall be no grading or filling within 100 feet of the normal high water ~~mark~~ line except to protect the shoreline and prevent erosion.
 - (c) ~~The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.~~ Erosion and sedimentation

control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

• • • •

- (6) ~~Uses projecting into the water~~ Uses extending over or below the shoreline. Site plans for piers, docks, wharves, breakwaters, causeways, marinas or other structures or uses ~~projecting into bodies of water~~ extending over or below the shoreline shall demonstrate that the proposed development will comply with the following requirements; provided, however, that such compliance shall not relieve the applicant from obtaining, before construction begins, all other required federal, state and local licenses and permits.

• • • •

- (i) Except in the shoreland general development districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure. Note: Permanent structures ~~projecting into or over water bodies~~ extending over or below the shoreline shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C.

• • • •

- (9) Subsurface wastewater. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the Shoreland district. All site plans for Shoreland areas shall demonstrate that all subsurface sewage disposal systems shall be located in areas of suitable soil of at least 1,000 square feet in size. The minimum setback for subsurface sewage disposal systems shall be no less than 100 horizontal feet from the normal high water line of a perennial water body. These requirements shall not be reduced by variance.

• • • •

- 13) Clearing or removal of vegetation for activities other than timber harvesting. All site plans shall demonstrate that clearing of vegetation for purposes of development shall be accomplished in accordance with the following:

• • • •

- (b) Except in areas as described in Subsection ~~M(1)~~ 13 (a) above, and except to allow for the development of permitted uses, within a strip of land extending 100 feet, horizontal distance, inland from the normal high water line of a great pond classified GPA or a river flowing to a great pond classified GPA, 75 feet, horizontal distance, from any other water body, tributary stream, stream, significant vernal pool or the upland edge of a freshwater wetland, and 25 feet from the upland edge of a forested wetland, a buffer strip of vegetation shall be preserved as follows:

ARTICLE XI Appeals and Variances

§ 125-102 Variances.

• • • •

D. Submissions generally.

- (1) At least 20 days prior to the Board of Appeals meeting at which a petitioner wishes to be heard, the petitioner shall provide to the Planning Department copies of all application materials in the form and quantity described in § 125-61B, except that each submission shall be conspicuously labeled "Variance Exhibit 1," "Variance Exhibit 2," and so on, in consecutive fashion. The petitioner shall also provide the Commissioner of the Department of Environmental Protection with one copy of all application materials in the form and quantity described in § 125-61B at least 20 days prior to the Board meeting. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

ARTICLE XII Construction and Definitions

• • • •

§ 125-109 Definitions.

The following terms shall have the following meanings:

• • • •

AGGRIEVED PERSON -- ~~A person whose interests are damaged or adversely affected by a decision, an action, or the failure to act by the Planning Board or Code Enforcement Officer.~~ an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who

have suffered particularized injury as a result of the granting or denial of such permit or variance.

BASEMENT -- ~~The substructure of a building that is partially or wholly below ground level and which may or may not be used for living space.~~ Any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

CAMPSITE, PRIVATE -- An area of land which is not associated with a campground but which is developed for repeated camping by only one group not to exceed 10 individuals and which involves site improvements which may include but not be limited to a gravel pads, parking areas, fireplaces, or tent platforms.

DRIVEWAY -- A vehicular access-way less than 500 feet in length ~~of any length,~~ constructed in accordance with the standards set forth in this chapter, serving ~~not more than two lots.~~ two single-family dwellings or one two-family dwelling or less.

FRONTAGE, SHORE -- ~~The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the shoreline at normal high water elevation.~~ The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

LOT, NONCONFORMING -- A single lot of record which, at the effective date of adoption or amendment of this chapter, does not comply with the minimum lot size, minimum area per family, minimum road frontage, shore frontage, minimum lot width or maximum lot coverage requirements of the district in which it is located.

LOT WIDTH -- The closest distance between the side lot lines of a lot or the width of an imaginary square that will fit entirely within the lines of a lot. When only two lot lines extend into the Shoreland zone, both lot lines shall be considered to be side lot lines.

RECREATIONAL FACILITY – A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

SUBSURFACE SEWAGE DISPOSAL SYSTEM -- Any system designed to dispose of waste or wastewater on or beneath the surface of the earth; includes but is not limited to septic tanks, disposal fields, grandfathered cesspools, holding tanks, and pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. § 414, any surface wastewater disposal system, or any municipal or quasi-municipal sewer or wastewater treatment system. ~~A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the~~

~~purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. § 414, any surface wastewater disposal system licensed under 38 M.R.S.A. § 413, Subdivision 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is, in whole or in part, hazardous waste as defined in 38 M.R.S.A. Chapter 13, Subchapter 1.~~

WATER BODIES, TRIBUTARY STREAM -- A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock and which flows to a water body or wetland as defined. This definition does not include the term “stream” as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the Shoreland zone of the receiving water body or wetland.

WATER CROSSING -- Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. water body or wetland, whether under, through, or over the water body or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables, as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

WETLAND, COASTAL – ~~All~~ Tidal and sub-tidal lands, including all areas below any identifiable debris line left by tidal action, all lands ~~areas~~ with vegetation present that is tolerant of saltwater and occurs primarily in a saltwater or estuarine habitat, and any swamp, marsh, bog, beach, flat or other contiguous lowland that is subject to tidal action during the highest tide level for the year in which an activity is proposed, as identified in tide tables published by the National Ocean Service. Coastal wetlands include coastal portions of sand dunes.

MAP AMENDMENT

Assign the Shoreland District to the following Property Tax Map and Lot numbers pursuant the Proposed Resource Protection Zone Changes map created on May 19, 2009:

<i>Map-Lot</i>	<i>Map-Lot</i>	<i>Map-Lot</i>	<i>Map-Lot</i>
208-086-000	214-024-000	236-012-000	221-073-000
230-001-000	214-031-000	236-005-000	221-074-000
214-028-001	214-015-000	236-008-000	235-016-000
214-021-000	220-053-000	214-008-000	228-038-000
221-072-000	215-032-000	236-011-000	239-002-000
221-069-000	221-092-000	214-010-000	220-047-000
207-043-000	221-078-000	214-009-000	221-070-001
208-083-000	257-001-000	214-026-000	221-070-000

208-084-000	214-017-000	244-008-000	215-032-001
207-057-000	214-020-000	215-001-000	222-002-000
207-058-000	208-082-000	HAMILTON POND	214-019-000
214-002-000	207-022-000	229-020-000	221-071-000
214-001-000	207-021-000	236-009-000	236-003-000
214-003-000	208-088-000	244-009-000	222-001-000
214-004-000	239-001-000	219-036-000	245-042-000
214-005-000	236-017-000	219-037-000	213-046-001
214-029-000	236-018-000	222-007-000	245-041-000
214-006-000	236-016-000	222-006-000	235-025-000
214-007-000	236-001-000	222-010-001	219-038-000
214-030-000	236-013-000	222-009-000	219-038-001
214-025-000	235-024-000	222-012-000	208-086-002
214-022-000	236-004-000	244-011-000	221-074-001
			214-020-000

Explanation: This amendment brings the Town into conformance with the required shoreland zoning from the Maine Department of Environmental Protection

Recommendations:

The five member Planning Board recommends adoption by a vote of 4 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 10 to 0.

Article 7 - LAND USE ORDINANCE AMENDMENT –Design Review Board Jurisdiction change to Town Hill Business District – Shall an Ordinance dated August 4, 2009 and entitled “An amendment to the Bar Harbor Code, Chapter 125, Land Use Ordinance Section 125-109, Section 125-111, Section 125-112 and Section 125-114 to change standards for Design Review Board Jurisdiction to Town Hill be enacted?

Design Review Board Jurisdiction change to Town Hill Business District

An Amendment to change standards for Design Review Board Jurisdiction change to Town Hill Business District

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125, LAND USE ORDINANCE

The town of Bar Harbor's entire Section 125-109, Section 125-111, Section 125-112 and Section 125-114 of the town code is being amended as follows.

§ Section 125-109 Definitions

Viewshed – An elevated or unobstructed location, position, or area that permits an unhindered panoramic vista of particular interest or pleasure or unique view to or from a particular point.

Visual Impact Assessment – an assessment of impacts to the viewshed from and to a proposed development. The assessment should accurately show the proposed project to scale within the visual context of the viewshed. There are 6 components of a visual impact assessment: defining the project setting and viewshed, identifying key views for visual assessment, analyzing existing visual character, a depiction of the visual appearance of project alternatives, an assessment of the visual impacts of project alternatives and a proposal for methods to mitigate adverse visual impacts.

§ 125-111 Design Review Board.

- C. Jurisdiction. The Review Board's jurisdiction shall be limited to the Design Review Overlay District identified in § 125-112A. The Review Board shall be concerned with those elements of development, redevelopment, rehabilitation and/or preservation that affect the visual quality of the district. subject to view from a public street. In Downtown Business Districts, this review includes views from public streets and parking lots, as well as the view from the waterfront. In the Town Hill Business District, all sides of the building and the overall property development are subject to review. The Board shall not consider the interior floor plan layout arrangements of buildings as part of their review.

§ 125-112. Applicability of design review.

- A. Design Review Overlay Districts. [Amended 11-4-2003; 11-2-2004]
- (1) The provisions of this article shall apply only within the geographic limits of the following Design Review Overlay District, hereinafter called the "district."
 - (2) Boundaries of the Design Review Overlay District. The district shall include the following neighborhood districts as shown on the Official Neighborhood Districts Map of Bar Harbor: the Downtown Business District; the Shoreland General Development I District; the Bar Harbor Historic District; ~~and~~ the Bar Harbor Historic Corridor District (excluding

those corridor districts on Route 3 that are within the area of the Town shown on Tax Map 11D); and the Town Hill Business District. The district is depicted on the map titled "Design Review Overlay District of the Town of Bar Harbor, Maine." The district also includes individual properties with the following uses, regardless of their district location: TA-1, TA-3, TA-4, and TA-6.

125-114 Design review standards.

- B. Standards relating to visual compatibility. The following standards for visual compatibility shall apply to all activities subject to a certificate of appropriateness within the Design Review Overlay District. These standards are intended to guide the design, construction, and maintenance of buildings, improvements, signs, and other visual features within the district to assure that they complement the visual character of the district and to serve as a foundation for the review of an application for a certificate of appropriateness. These standards are intended to be general statements of design principles to which activities within the district are required to conform.

- (5) Building spacing. In the Downtown Business Districts, ~~Where~~ an established pattern exists with respect to the placement of buildings on the lot vis-a-vis the ~~side~~ lot lines, new or modified buildings shall reflect the established pattern to the extent allowed by the setback provisions of the district in which they are located. In an area where the existing buildings all extend the full width of the lot, constructing a new building so that it is set back from the lot line is not consistent with this guideline unless the setback is required to meet zoning requirements.

- (9) Multiple Buildings on a lot in the Town Hill Business District

In the Town Hill Business District, the layout of buildings on a lot shall reflect the layout of other lots in the district with multiple buildings. The arrangement of the buildings should be visually compatible with the street and with the buildings on the lot.

- (10) Viewshed in Town Hill Business District

Building height and placement are subject to further review in the Town Hill Business District to determine any visual impacts to retain the vista along Route 102 from the Crooked Road intersection to the Pine Heath Road intersection.

- C. Standards for materials and design details for structural projects. The following standards are intended to assure that proposals conform to the quality of design

that has historically been associated with buildings within the district. ~~These standards apply to projects involving the design, construction, renovation, and/or maintenance of the actual structure of the building. Separate provisions are provided for maintenance, renovations, construction, demolition/relocation, and seasonal closures.~~ The structural standards have been designed to promote compatibility with Bar Harbor's historic character and its scenic location. Certain types of design are inappropriate within the designated Design Review Overlay Districts since they will not meet these standards and thus do not enhance the existing visual character or preserve Bar Harbor's uniqueness.

- (1) Construction standards. With the advent of many new exterior materials, the standards are not intended to prohibit the use of all new materials. Therefore, any quality material that simulates traditional features will be evaluated on a case-by-case basis. The following standards apply to the construction of new buildings, additions to existing buildings, reconstruction, and major renovations:

(a) Siding material.

[1] Siding is applied as the exposed surface on the outside walls of buildings to provide a barrier against the penetration and infiltration of weather and at the same time enhance the visual and architectural quality of the structure in keeping with other buildings in the district. The selected siding should be visually compatible with other exterior finishes on the building and with those buildings to which it is visually related.

[2] The siding used on the building should be a material that is in common use within the overlay district. The following are appropriate siding materials:

[a] Clapboards/shiplap.

[b] Shingles/shakes.

[c] Stucco/concrete. Stucco with wood trim interruption (English Tudor) is acceptable. Concrete block and poured or precast concrete are acceptable for foundation and fire walls but are generally not appropriate for wall surfaces that can be seen from a public street. Masonry products designed to replicate other appropriate materials are acceptable siding.

[d] Brick.

[e] Stone.

[f] Vinyl/metal siding. Vinyl or metal siding designed to replicate traditional siding material is appropriate but flat or corrugated metal or plastic panels are inappropriate as siding within the district.

[g] In Town Hill Business District, barn board, and board and batten.

- [3] ~~Unfinished plywood~~ or composite flat sheet products such as T-111, ~~barn board, and board and batten~~ are not appropriate siding materials, ~~except for projects subject to design review but are appropriate for areas that cannot be seen from a public street.~~

~~[4] With the advent of many new exterior materials, the standards are not intended to prohibit the use of all new siding materials. Therefore, any quality material that simulates traditional features will be evaluated on a case-by-case basis.~~

(c) Windows.

- [1] Windows are glassed openings in the exterior walls of buildings to admit light and air, allow for viewing, permit merchandise display, and to enhance the architectural beauty of the structure. The windows in a building shall be visually compatible. Almost any style is appropriate as long as the size is proportional to the building and maintains the architectural continuity of the building.

~~[2] The following window materials are appropriate within the district: wood, vinyl, and lead.~~

- ~~[3]~~ Other materials are appropriate if they simulate traditional materials or are visually compatible with other components of the building.

(d) Doors and doorways (in the Downtown Business Districts only).

- [1] Doors are a means of safe and orderly entrance to and egress from buildings. As the entrance to the building, the front or main door is often the focal point of the principal facade. Therefore, care must be taken in designing the doorway and selecting a door that is visually compatible with the structure.

- [2] Doors and doorways shall conform to the following standards:

- [a] Major store entrance doors shall be recessed from the property line so as not to interfere with pedestrian traffic when they are opened.
- [b] Front doors shall have transoms above to the full height of store windows if this is consistent with the established pattern of other entrance doors.

~~[3] The following are appropriate materials for doors: wood, metal, vinyl and fiberglass.~~

(e) Entrances.

- [1] In the Downtown Business Districts, An entrance is much more than a doorway. It is a means of getting from the street to the front door and may include changes in grade, protection from the

elements, and/or a degree of landscaping and lighting. The entrance to the building shall be visually compatible with the overall building treatment and should be the focal point of the facade. The entrance shall be designed and placed to have both a visual and functional relationship to the street and sidewalk.

(g) Roofing.

~~[2] The following are appropriate materials for roofs that are visible: asphalt and fiberglass shingles or roll roofing, slate, clay or cement tile, copper, gravel built up roof, shakes, and vinyl or rubberized roofing.~~

[31] In the Downtown Business Districts, Bbrightly colored metal, plastic or fiberglass roofing is visually incompatible with the character of the district and therefore inappropriate. ~~With the advent of many new roofing materials, the standards are not intended to prohibit the use of all new siding materials. Therefore, any quality material that simulates traditional features will be evaluated on a case-by-case basis.~~

[42] Other materials are appropriate if it is demonstrated that they are visually compatible with the overall building and its environs.

[53] In the Downtown Business Districts, Aappropriate roof colors include neutral shades such as earth tones, grays, and black. Bright or primary colors are not appropriate.

(3) Standards for seasonal closures.

(e) Signs shall be left in place or removed. The covering or wrapping of signs with tarp or other plastic materials is not appropriate. The use of a canvas cloth covering the sign, and bearing the name of the business is encouraged.

D. Standards for materials and design details for accessory projects. The following standards apply to projects that do not involve the actual structure of the building but significantly impact upon the visual environment and the compatibility of the building with the character of district. Separate standards are provided for awnings, canopies, and umbrellas, outdoor displays, lighting, and landscaping. The accessory standards have been designed to promote compatibility with the district's historic character and its scenic location.

(1) Standards for awnings, canopies, and umbrellas. The objective of the Town is to encourage property owners and businesses to make permanent improvements to the property in the district. Therefore, the use of temporary structures is

discouraged. At the same time, the Board recognizes that awnings, canopies, and umbrellas can provide cover, add color, provide shade, and serve as a transition between the storefront and the upper facade in the case of awnings and canopies.

(a) General standards.

~~[2] — In addition, the following standards apply to any awning or canopy:~~

~~[a] — Lettering or graphics shall be placed on a valance of no more than 12 inches attached at the awning bar;~~

~~[b] — Graphics on an awning or canopy or attached valance are considered signage and must comply with the requirements of this chapter relating to signs.~~

(3) Landscaping standards. The landscaping standards are intended to maintain and enrich the character and beauty of the Town through the regulation of landscaping which provides aesthetically pleasing scenery, shelter and food for wildlife, natural boundaries and buffers for people, and the control of erosion. The landscaping in conjunction with the construction of a new building or an addition to existing buildings, or major landscaping projects that significantly alter the exterior appearance of a building that is used in whole or in part for nonresidential purposes, is subject to approval by the Design Review Board.

(a) Materials. Materials and types of vegetation for landscaping are too numerous to list and most are acceptable; however, the material chosen shall be visually compatible with the building.

(i) The use of invasive species as listed by the University of Maine Cooperative Extension is discouraged

(b) Design. The design of the landscape should enhance the appearance of the building as well as the grounds. Landscaping shall not block unique architectural features of the building or appear disproportional to the lot and building size.

(c) Town Hill Business District plantings shall include street tree plantings. Parking areas shall be screened from Route 102. Shrubs and other materials shall enhance the buildings. All other requirements in Section 125-67.H shall be followed.

G. Other standards

(1) Town Hill Business District

(a) A visual impact assessment shall be submitted to the Board to review the impacts from the development on the viewshed from Route 102 in a southwesterly direction.

(b) Building placement

- (i) Multiple buildings on a lot shall be arranged such that the smallest portion of a building, or the smallest building as proposed, shall be along the street.
- (ii) A principal building on a lot shall be arranged such that the narrowest width of the building faces the street.

LAND USE

**Appendix 1
Town of Bar Harbor
Table 1
Chapter 125, Land Use**

Site Buffered	Minimum Width of Structure (feet)	Required Landscaping of Structure	Plants per 100 Linear Feet of Buffer			
			Canopy Trees	Understory Trees	Shrubs	Evergreen Trees
One-story building	60		10	15	60	10
All other buildings	60		15	15	30	30
Parking areas		<u>Berm-For each 24 parking spaces there shall be required two understory trees and six shrubs</u>				
Site requiring screening		<u>Fencing or berm other landscaping to be determined by Planning or Design Review Board</u>				

NOTES:

* ~~For each 24 parking spaces there shall be required, adjacent to the parking spaces, three canopy trees, two understory trees and six shrubs.~~

Explanation: *This amendment updates the existing review standards and expands the Design Review Board Jurisdiction to include the Town Hill Business District.*

Recommendations:

The five member Planning Board recommends adoption by a vote of 4 to 0.

The 22 member Warrant Committee recommends rejection by a vote of 9 to 1.

The polls will be open from 8:00 a.m. until 8:00 p.m. on Tuesday, November 3, 2009 for election of the Moderator and referendum balloting. Absentee ballots will be processed the day before, Monday, November 2, 2009, from 9:00 a.m. until 4:00 p.m. or sooner, if completed; and on Election Day every hour on the hour starting at 9:00 a.m. until 8:00 p.m.

The Registrar of Voters of the Town of Bar Harbor hereby gives notice that she will be at the Municipal Offices 8:30 a.m. to 5:00 p.m. Monday through Friday through November 2, 2009, for the registration of persons desiring to register for this election.

Given under our hands this fifteenth day of September 2009.

Municipal Officers of the Town of Bar Harbor

Sandy McFarland, Chair

Robert L. Jordan, Jr.

Ruth A. Eveland, Vice-Chair

Jane Disney, PhD.

Paul A. Paradis, Secretary

Greg Veilleux

Peter St. Germain

Attest:

A true copy _____
Town Clerk of Bar Harbor, ME
